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FISCAL IMPACT STATEMENT

LS 6091

BILL NUMBER: SB 295

NOTE PREPARED: Dec 31, 2012

BILL AMENDED:

SUBJECT: City and Town Courts.

FIRST AUTHOR: Sen. Randolph

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Qualifications of City and Town Court Judges: This bill requires the judge of a city or town court to be an attorney in good standing admitted to the practice of law in Indiana.

It allows a person who is:

- (1) a judge of a city or town court serving on June 30, 2013; and
 - (2) not an attorney in good standing admitted to the practice of law in Indiana;
- to continue to serve only for the remainder of the person's term.

It repeals a superseded provision concerning qualifications for town court judges.

Change in Civil Jurisdiction for Second Class Cities: It provides that:

- (1) the city courts and town courts in Lake County; and
 - (2) the city court in a second class city;
- have original and concurrent civil jurisdiction with the circuit court and superior courts of the county in which the city and town courts are located over:
- (A) civil actions in which the amount sought or value of the property sought to be recovered is not more than \$6,000;
 - (B) possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed \$6,000; and
 - (C) emergency possessory actions between a landlord and tenant.

Second Class City Court: It provides that a city court in a second class city is a court of record.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: *Courts of Record and Change in Civil Jurisdiction:* The state General Fund would receive a smaller proportion of court fees when a court case is filed in a city or town court rather than in a trial court.

The court fee that is charged in either a municipal or state court is the same when a litigant files a civil case or when a person is found guilty of a misdemeanor, infraction, or ordinance violation. When a case is tried in a trial court, the state General Fund receives 70% of the fee, but the state General Fund receives 55% of the fee when the case is tried in a city or town court. (See *Explanation of Local Revenues.*)

Summary of NET Local Impact: If the bill results in an increase in the use of city and town courts for certain civil actions, the costs and revenues of city and towns courts could both increase. The net effect of the increased activity depends on the caseload generated by the additional filings.

Also, indeterminate increased costs are expected to pay for additional salary of judges who will be required to be an attorney in good standing under the bill. (Nineteen courts already have this requirement, and they are not expected to have an increase in cost.) Potentially, salary costs for court reporting services for second class city courts and certain municipal courts in Lake County could increase as these would be courts of record under the bill.

Explanation of Local Expenditures: *Qualifications of City and Town Court Judges:* If judicial salaries increase as a result of the requirement that municipal court judges be attorneys in good standing, the salary expenses of city and town courts with nonattorney judges may increase, or some municipal courts may close if no attorneys are available to serve as judges. The fiscal body of a city or town of the municipal court sets the compensation of the judge.

Average salary data of municipal court judges indicate a difference in earnings between judges who are attorneys and judges who are not attorneys. City and town court judges who are attorneys earn on average 82% more than judges who are not attorneys. Municipal court judges required by statute to be attorneys had a salary about 139% higher than the municipal court judges who are not attorneys and are not required to be by law. Consequently, the expenditures of city and town courts with nonattorney judges would likely either increase if they are required to be attorneys, or the court would have to close operations if the court could not find an attorney to officiate as a judge.

Court of Record: The bill could increase costs an indeterminate amount for a second class city court or a certain municipal court in Lake County to make a record of the court's proceedings.

In 2011, for the 18 municipal courts in second class cities or municipal courts in Lake County, recorder salary expense totaled \$248,100. The highest salary expenditure was \$45,200, and 10 of the 18 courts had no salary expense. [Only Gary City Court in Lake County had reporter salary expense.] The average cost for the affected

courts with reporter salary expense was \$31,000.

Change in Civil Jurisdiction: Increasing the civil jurisdiction of these 18 courts may require additional staff if they receive more case filings. Generally, the estimated time needed to dispose of civil cases is more than for misdemeanors, infractions, and ordinance violations, as shown in the following table.

Case Category	Weighting Factor (Minutes)
Miscellaneous Criminal	18
Misdemeanor	40
Infractions and Ordinance Violations	2
Civil Plenary	121
Civil Collections	26
Civil Tort	118
Civil Miscellaneous	87
Small Claims	13

Additional Information and Background -

Qualifications of City and Town Court Judges: In 2011, there were 75 city and town courts in Indiana. However, 6 of these courts were to be abolished as of December 31, 2011, and these courts were eliminated from this review because a large number of them, 4, did not have a judge who is an attorney.

State statute specifies 19 municipal courts that are required to have a judge who is an attorney, leaving 50 courts for which this credential is optional. The following table shows the difference in salary between judges who are attorneys and judges who are not attorneys, based on whether the court is required to have a judge who is an attorney.

Attorney	Required	Count	Average Salary	Estimated Additional Salary of Judges Who are Attorneys
No	No	28	\$19,376	---
Yes	Yes	19	46,297	139%
Yes	No	22	25,910	33%
Yes	Yes & No	41	35,358	82%

Courts of Record: A court of record has its proceedings permanently recorded and has the power to fine or imprison for contempt. Second class cities have populations between 35,000 and 599,999 in population. The following 10 city courts would become courts of record under the bill.

City Court	County	2010 Population	City Court	County	2010 Population
Anderson	Madison	56,129	Hammond	Lake	80,830
Carmel	Hamilton	79,191	Jeffersonville	Clark	44,953
Elkhart	Elkhart	50,949	Muncie	Delaware	70,085
Gary	Lake	80,294	Noblesville	Hamilton	51,969
Greenwood	Johnson	49,791	Terre Haute	Vigo	60,785

Change in Civil Jurisdiction: Under current law, in Lake County, the courts in the four cities and one town with the largest population have concurrent civil jurisdiction with the county circuit court for amounts not exceeding \$3,000 and in any action where the parties or the subject matter are in the county in which the city or town is located.

Under the bill, in addition to the second class city courts shown above, the following municipal courts in Lake County would have jurisdiction in certain civil and proressory actions under \$6,000.

Crown Point City Court
East Chicago City Court
Hobart City Court
Lake Station City Court
Whiting City Court
Lowell Town Court
Merrillville Town Court
Shererville Town Court

Explanation of Local Revenues: *Courts of Record and Change in Civil Jurisdiction:* If more cases are filed in the second class city courts, then the general fund of city courts and the general fund of the county in which the court is located would receive more revenue from court fees.

Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

The state General Fund receives a smaller share of revenue from the civil costs fee when cases are filed in city

and town courts rather than in trial courts. [The state receives all of the revenue from the other fees mentioned above.]

The following table compares the distribution of court fee revenue depending on whether a case is filed in a trial court or a city or town court.

	Trial Courts	City or Town Courts
State Share	70%	55%
County Share	27%	20%
City or Town Share	3%	25%

State Agencies Affected: Division of State Court Administration, Indiana Supreme Court.

Local Agencies Affected: 38 municipalities with city or town courts in which the judges are not required by law to be attorneys; City courts in Muncie, Elkhart, Noblesville, Carmel, Greenwood, Hammond, Gary, Anderson, and Terre Haute.

Information Sources: *Indiana Judicial Service Report 2011*, accessed at <http://issuu.com/incourts/docs/2011-yearinreview?mode=window&backgroundColor=%23222222>; *Roll Call of Attorneys* accessed at http://hats2.courts.state.in.us/rollatty/roal_inp.jsp; *Court Reporter Handbook* accessed at <http://www.in.gov/judiciary/center/2447.htm>; [http://judgepedia.org/index.php/Indiana Municipal Courts](http://judgepedia.org/index.php/Indiana_Municipal_Courts).

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